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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,989	09/25/2003	Andrew Knappett	P 0555.13065	1088
30615	7590	09/08/2005	EXAMINER	
BIRDWELL & JANKE, LLP 1100 SW SIXTH AVENUE SUITE 1400 PORTLAND, OR 97204			MILLER, BENA B	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/672,989	<b>Applicant(s)</b> KNAPPETT ET AL	
	<b>Examiner</b> Bena Miller	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 18, 20 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 18, 20 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*Bena B. Miller*

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/29/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

**The restriction has been withdrawn. An Office Action on the merits of the claims is set forth below.**

#### ***Drawings***

Figures 1, 2A, 2E, 3, 4 and 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numeral #8. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14, 18, 20 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartwood et al (US Patent 5,979,522) in view of Biller et al (EP 1329295A2).

Swartwood et al teaches in the figures most of the elements of the claimed invention including a rotating member (col. 2, lines 43-47), a knife having an elongate axis, two spaced apart cutting edges parallel to the elongate axis cutting edge and a front side having a first interlocking feature and spaced apart deflector ridges (12), a counterknife having an interlocking feature (fig. 2 and 3, the Examiner takes the position that the planar surface of the counterknife of Swartwood et al is adapted to make contact with one of the planar surfaces over at least 50% of the cross-sectional width). However, Swartwood fails to teach the knife have a second interlocking feature including an opposed first plane surfaces defining a positive angle and the outer clamping member having a third interlocking feature. Biller et al teaches in the figures a wood working knife assembly having a knife having a back side with a second interlocking feature defining a first positive angle therebetween as seen in figures 4 and

an outer clamping member having a third interlocking feature as seen in figure 1. Biller et al teach that the concave hollow shape, figure 4, allows the knife to be properly positioned if the knife's position is slightly displaced or askew when clamped. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a second interlocking feature and a third interlocking feature as taught by Biller in the knife and outer clamping member, respectively, of Swartwood for the purpose of properly positioning the knife when clamped in the assembly.

At the time the invention was made, it would have been an obvious matter of design choice to a persons of ordinary skill in the art to have the first angle and second angle about 70 and 72 degrees, respectively. One of ordinary skill in the art, furthermore, would have expected the device of Biller and Swartwood and applicant's invention, to perform equally well with either the device of Biller and Swartwood or the claimed angles because both would perform the same function of clamping the knife.

Therefore, it would have been prima facie obvious to modify Biller and Swartwood to obtain the invention specified in the claims because such modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Biller and Swartwood.

Claims 1-14, 18, 20 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biller et al (EP 1329295A2) in view of Swartwood et al (US Patent 5,979,522) or Hinchliff (US Patent 6,591,878).

Biller et al teaches in the figures most of the elements of the claimed invention including a rotating member (col. 7, par. 0030), a knife having an elongate axis, two

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spaced apart cutting edges parallel to the elongate axis cutting edge, and a back side having a second interlocking feature (fig.6A) and a outer clamp having a interlocking feature that interlocks with the second interlocking feature of the knife (fig. 4). However, Biller et al fails to teach a knife having a front side having a first interlocking feature along with the spaced apart deflector ridges and a counterknife having a fourth interlocking feature. Swartwood et al teaches a knife holder having a knife with spaced apart ridge deflectors and an interlocking feature and a counterknife having a fourth interlocking feature as shown in figure 2 and 3. Though Biller et al teach benefits of having a flat front clamping surface of knife 32, it would have been obvious to one having ordinary skill in the art at the time to incorporate an interlocking feature and ridge deflectors and a fourth interlocking feature as suggested by Swartwood et al in the knife and counterknife of Biller if one did not need the advantage of the structure of Biller and needed the advantage of the device of Swartwood.

At the time the invention was made, it would have been an obvious matter of design choice to a persons of ordinary skill in the art to have the first angle and second angle about 70 and 72 degrees, respectively. One of ordinary skill in the art, furthermore, would have expected the device of Biller and Swartwood and applicant's invention, to perform equally well with either the device of Biller and Swartwood or the claimed angles because both would perform the same function of clamping the knife.

Therefore, it would have been prima facie obvious to modify Biller and Swartwood to obtain the invention specified in the claims because such modification

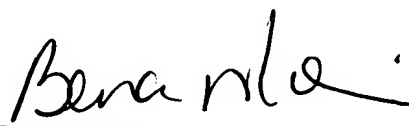
would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Biller and Swartwood.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Bena Miller  
Primary Examiner  
Art Unit 3725

bbm  
September 02, 2005